

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

---

In Re:	§	
	§	
DEEP MARINE HOLDINGS, INC.	§	Case No. 09-39313
et al.	§	
	§	Jointly Administered Chapter 11
	§	
Debtors.	§	

---

DEEP MARINE HOLDINGS, INC.,	§	
and DEEP MARINE TECHNOLOGY	§	
INCORPORATED	§	
	§	
Plaintiffs,	§	
	§	
v.	§	
	§	Adversary No. 10-3026
	§	
FLI DEEP MARINE LLC, BRESSNER	§	
PARTNERS, LTD., LOGAN	§	
LANGBERG, HARLEY LANGBERG,	§	
and DEEPWORK, INC.	§	
	§	
Defendants.		

---

**DEFENDANTS' ANSWER TO PLAINTIFFS' ORIGINAL COMPLAINT**  
**(Relates to Doc. No. 1)**

Defendants FLI Deep Marine LLC, Bressner Partners, Ltd., Logan Langberg and Harley Langberg (the "Defendants") as and for their Answer and Affirmative Defenses, in response to the correspondingly numbered paragraphs of the Original Complaint and Application for Temporary Restraining Order, Preliminary Injunction and Permanent Injunction (the "Adversary Complaint") by Plaintiffs Deep

Marine Holdings, Inc. and Deep Marine Technology Incorporated (together, "DMT" or "Plaintiffs"), allege as follows:

**ANSWER**

**I. PARTIES**

1. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 and therefore deny the same.

2. Admitted.

(a) Admitted.

(b) Admitted.

(c) Admitted.

(d) Admitted.

(e) Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2(e) and therefore deny the same.

**II. JURISDICTION AND VENUE**

3. Whether or not this Court has jurisdiction over this adversary proceeding is a legal conclusion to which no response is required. Likewise, whether or not this is a "core proceeding" within the meaning of 28 U.S.C. § 157(b)(2)(A), (E), (G), and (O) and whether or not venue is proper in this district are legal conclusions to which no response is required. To the extent that a response to these allegations is deemed necessary, such allegations are denied.

### **III. BACKGROUND FACTS**

4. Admitted.

5. Admitted.

6. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 and therefore deny the same.

7. Admitted.

8. On information and belief, the exchange of shares in Deep Marine Technology Incorporated for shares in Deep Marine Holdings, Inc. was consummated on March 27, 2008, not 2009 as indicated in the Adversary Complaint. The Defendants admit the remaining allegations in paragraph 8.

9. The complaint filed in the Delaware Action speaks for itself.

### **IV. CAUSES OF ACTION**

#### **COUNT ONE: DECLARATORY JUDGMENT**

10. To the extent necessary or appropriate, the Defendants incorporate herein their responses from the foregoing paragraphs.

11. The provisions of the Uniform Declaratory Judgment Act speak for themselves. All other allegations in paragraph 11 are denied.

12. Whether or not declaratory relief is proper here is a legal conclusion to which no response is required. Likewise, whether or not the Delaware Causes of Action may be properly categorized as derivative claims is a legal conclusion to which no response is required. The Defendants admit that Paul McKim brought a

case against the defendants named in the Delaware Actions that was based on many of the same facts as the Delaware Action. The Defendants also admit the case brought by McKim was ultimately dismissed after McKim lost standing when the Debtors stripped McKim of his shares in the Debtors. All other allegations in paragraph 12 are denied.

13. Defendants lack knowledge or information sufficient to form a belief as to the timing of the dismissal of the Texas Action or to the causes of action in the Texas Action.

14. The Defendants admit that they filed a derivative complaint in the Delaware Chancery Court on November 3, 2008, but deny that the Delaware Causes of Action are substantially similar to the causes of action in the November 3, 2008 derivative complaint.

15. Denied.

16. The allegations in paragraph 16 call for a legal conclusion to which no response is required. Furthermore, the provisions of 28 U.S.C. § 1334 speak for themselves. To the extent that a response to these allegations is deemed necessary, such allegations are denied.

#### **COUNT TWO: ENFORCEMENT OF THE AUTOMATIC STAY**

17. To the extent necessary or appropriate, the Defendants incorporate herein their responses from the foregoing paragraphs.

18. The allegations in paragraph 18 call for a legal conclusion to which no response is required. To the extent that a response to these allegations is deemed necessary, such allegations are denied.

19. Admitted that the Delaware Plaintiffs filed a letter with Vice Chancellor Strine after they received the Suggestion of Bankruptcy, but prior to the time the Court issued the TRO.

20. The allegations in paragraph 20 call for a legal conclusion to which no response is required. To the extent that a response to these allegations is deemed necessary, such allegations are denied.

#### **COUNT THREE: VIOLATION OF THE AUTOMATIC STAY**

21. To the extent necessary or appropriate, the Defendants incorporate herein their responses from the foregoing paragraphs.

22. The allegations in paragraph 22 call for a legal conclusion to which no response is required. To the extent that a response to these allegations is deemed necessary, such allegations are denied. The Defendants have not violated the bankruptcy stay.

23. The allegations in paragraph 23 call for a legal conclusion to which no response is required. To the extent that a response to these allegations is deemed necessary, such allegations are denied. The Defendants have not violated the bankruptcy stay.

#### **COUNT FOUR: TURNOVER OF PROPERTY OF THE ESTATE**

24. To the extent necessary or appropriate, the Defendants incorporate herein their responses from the foregoing paragraphs.

25. The allegations in paragraph 25 call for a legal conclusion to which no response is required. To the extent that a response to these allegations is deemed necessary, such allegations are denied.

**V. APPLICATION FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY  
INJUNCTION AND PERMANENT INJUNCTION**

26. Section 105 of the Bankruptcy Code speaks for itself, and no further response is required. To the extent that a response to these allegations is deemed necessary, such allegations are denied.

27. The allegations in paragraph 27 call for a legal conclusion to which no response is required. To the extent that a response to these allegations is deemed necessary, such allegations are denied.

28. The allegations in paragraph 28 call for a legal conclusion to which no response is required. To the extent that a response to these allegations is deemed necessary, such allegations are denied.

29. The allegations in paragraph 29 call for a legal conclusion to which no response is required. To the extent that a response to these allegations is deemed necessary, such allegations are denied.

30. The allegations in paragraph 30 call for a legal conclusion to which no response is required. To the extent that a response to these allegations is deemed necessary, such allegations are denied.

31. The allegations in paragraph 31 do not require a response. To the extent that a response to these allegations is deemed necessary, such allegations are denied.

32. The allegations in paragraph 32 do not require a response. To the extent that a response to these allegations is deemed necessary, such allegations are denied.

33. The allegations in paragraph 33 do not require a response. To the extent that a response to these allegations is deemed necessary, such allegations are denied.

#### **VI. BOND**

34. The allegations in paragraph 34 do not require a response. To the extent that a response to these allegations is deemed necessary, such allegations are denied.

#### **VII. REQUESTED RELIEF**

35. The allegations in paragraph 35 do not require a response. To the extent that a response to these allegations is deemed necessary, such allegations are denied.

#### **AFFIRMATIVE DEFENSES**

##### **First Affirmative Defense**

The Debtors' claims are barred, in whole or in part, because the Debtors fails to state claims upon which relief can be granted and fails to state facts that support the claims set forth in the Adversary Complaint.

**Second Affirmative Defense**

The Debtors' claims are barred, in whole or in part, by their own actions and omissions.

**Third Affirmative Defense**

The Debtors' claims are barred, in whole or in part, by the doctrine of fraud.

**Fourth Affirmative Defense**

The Debtors' claims are barred, in whole or in part, by their unclean hands.

**Fifth Affirmative Defense**

The Debtors' claims are barred, in whole or in part, by the existence of direct claims against the non-Debtor Delaware Defendants.

WHEREFORE, based upon these answers and affirmative defenses, the Defendants respectfully request that this Court:

- (a) Dismiss the Adversary Complaint in its entirety, on the merits, and with prejudice;
- (b) Award the Defendants costs and attorneys' fees.



Dated: March 5, 2010

Respectfully submitted,

PADUANO & WEINTRAUB LLP

/s/ Anthony Paduano  
Anthony Paduano (Admitted *pro hac vice*)  
1251 Avenue of the Americas  
Ninth Floor  
New York, New York 10020  
(212) 785-9100  
[ap@pwlawyers.com](mailto:ap@pwlawyers.com)

JASPAN SCHLESINGER LLP  
913 North Market Street, 12th Floor  
Wilmington, Delaware 19801  
(302) 351-8000

Attorneys for Defendants FLI Deep Marine  
LLC, Bressner Partners Ltd., Logan Langberg  
and Harley Langberg

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 5, 2010, a true and correct copy of the foregoing document was served on all parties on the attached service list by electronic means as listed on the court's ECF noticing system and by electronic mail as indicated.

/s/ Jason Snyder  
Jason Snyder

David S Eagle, Esq.  
Kelley Green, Esq.  
Klehr Harrison, Harvey, Ransburg &  
Eller's, LLP  
919 Market Street  
Suite 1000  
Wilmington, DE 19801-3062  
[deagle@klehr.com](mailto:deagle@klehr.com)  
[KGreen@klehr.com](mailto:KGreen@klehr.com)

Robert R. Weinstine, Esq.  
Winthrop and Weinstine  
Suite 3500  
225 South Sixth Street  
Minneapolis, MN 55402-4629  
[RWeinstine@winthrop.com](mailto:RWeinstine@winthrop.com)  
[JWindler@winthrop.com](mailto:JWindler@winthrop.com)

Kurt Heyman, Esq.  
Patricia Enerio, Esq.  
Proctor Heyman LLP  
Wilmington, DE 19801  
[penerio@proctorheyman.com](mailto:penerio@proctorheyman.com)  
[kheyman@proctorheyman.com](mailto:kheyman@proctorheyman.com)

Casey T Wallace, Esq.  
Sandy D. Hellums, Esq.  
Haynes and Boone LLP  
One Houston Center  
12212 McKinney Street, Suite 2100  
Houston, Texas 77010-2007  
[casey.wallace@haynesboone.com](mailto:casey.wallace@haynesboone.com)  
[sandy.hellums@haynesboone.com](mailto:sandy.hellums@haynesboone.com)

Joseph Schoell, Esq.  
Todd Schiltz, Esq.  
Drinker Biddle  
1100 North Market Street  
Suite 1001  
Wilmington, DE 19801  
[Joseph.Schoell@dbr.com](mailto:Joseph.Schoell@dbr.com)  
[Todd.schiltz@dbr.com](mailto:Todd.schiltz@dbr.com)

Geoffrey L. Harrison, Esq.  
Eric J. Mayer, Esq.  
Sammy Ford IV, Esq.  
Sussman Godfrey LLP  
1000 Louisiana Street, Suite 5100  
Houston, TX 77002  
[gharrison@susmangodfrey.com](mailto:gharrison@susmangodfrey.com)  
[sford@susmangodfrey.com](mailto:sford@susmangodfrey.com)

Kevin W Goldstein, Esq.  
Stradley Ronan Stevens & Young, LLP  
300 Delaware Avenue Suite 800  
Wilmington, DE 19802  
[kgoldstein@stradley.com](mailto:kgoldstein@stradley.com)  
[fgauthier@stradley.com](mailto:fgauthier@stradley.com)

Thomas J. Cortazzo, Esq.  
Jena W. Smith, Esq.  
Baldwin Haspel Burke & Mayer LLC  
110 Poydras Street  
Energy Center 22nd Floor  
New Orleans, LA 70163-2200  
[tcortazzo@bhbmlaw.com](mailto:tcortazzo@bhbmlaw.com)  
[smith@bhbmlaw.com](mailto:smith@bhbmlaw.com)

John J. Murphy, III, Esq.  
Stradley Ronon, Stevens & Young,  
LLP  
2600 One Commerce Square  
Philadelphia, PA 19103  
[jmurphy@stradley.com](mailto:jmurphy@stradley.com)

Rick S. Miller, Esq.  
Ferry, Joseph & Pearce, P.A.  
824 North Market Street, Suite 904  
P.O. Box 1351  
Wilmington, DE 19899  
[RMiller@eapdlaw.com](mailto:RMiller@eapdlaw.com)

Michael J. Maimone, Esq.  
Joseph B. Cicero, Esq.  
Gregory E. Stuhlman, Esq.  
Greenberg Traurig, LLP  
The Nemours Building  
1007 North Orange Street, Suite  
1200  
Wilmington, DE 19801  
[maimonem@gtlaw.com](mailto:maimonem@gtlaw.com)  
[ciceroj@gtlaw.com](mailto:ciceroj@gtlaw.com)  
[stuhlmang@gtlaw.com](mailto:stuhlmang@gtlaw.com)

K.B. Battaglini, Esq.  
Greenberg Traurig, LLP  
1000 Louisiana, Street, Suite 1700  
Houston, TX 77002  
[BattagliniK@gtlaw.com](mailto:BattagliniK@gtlaw.com)

Laurie Schenker Polleck, Esq.  
Jaspan Schlesinger LLP  
913 Market Street, 12th Floor  
Wilmington DE 19801  
[lpolleck@jshllp-de.com](mailto:lpolleck@jshllp-de.com)

Steve Schlesinger, Esq.  
Lisa Golden Esq.  
Michael Leon, Esq.  
Jaspan Schlesinger LLP  
Garden City Plaza, Floor 5  
Garden City, NY 11530-3333  
[sschlesinger@jaspanllp.com](mailto:sschlesinger@jaspanllp.com)  
[lgolden@jaspanllp.com](mailto:lgolden@jaspanllp.com)  
[mleon@jaspanllp.com](mailto:mleon@jaspanllp.com)

Denise Seastone Kraft  
Tyler O'Connell Esq.  
Edwards Angell Palmer & Dodge LLP  
919 North Market Street, Ste 1500  
Wilmington, DE 19801  
[TOConnell@eapdlaw.com](mailto:TOConnell@eapdlaw.com)  
[DKraft@eapdlaw.com](mailto:DKraft@eapdlaw.com)

Rick Lesser  
Lesser & Associates  
423 South Pacific Coast Highway  
Suite 206  
Redondo Beach, California 90277  
[lesser@divelaw.com](mailto:lesser@divelaw.com)  
[lizardbrane@aol.com](mailto:lizardbrane@aol.com)

Marcy Kurtz, Esquire  
Jason Cohen, Esquire  
Will Anderson, Esquire  
Trey Wood, Esquire  
Bracewell & Giuliani  
711 Louisiana Street  
Suite 2300, Houston Texas 77002-  
2770  
[marcy.kurtz@bgllp.com](mailto:marcy.kurtz@bgllp.com)  
[jason.cohen@bgllp.com](mailto:jason.cohen@bgllp.com)  
[will.anderson@bgllp.com](mailto:will.anderson@bgllp.com)  
[trey.wood@bgllp.com](mailto:trey.wood@bgllp.com)

Tony M. Davis  
Baker Botts LLP  
One Shell Plaza  
910 Louisiana  
Houston, TX 77002  
[tony.davis@bakerbotts.com](mailto:tony.davis@bakerbotts.com)

John Bittner  
Grant Thornton LLP  
1717 Main Street  
Dallas, TX 75201  
[John.Bittner@gt.com](mailto:John.Bittner@gt.com)